

By: Hughes

S.B. No. 1935

A BILL TO BE ENTITLED

AN ACT

relating to disclosure of certain health care costs and shared savings between certain health benefit plans and state employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1551, Insurance Code, is amended by adding Subchapters K and L to read as follows:

SUBCHAPTER K. HEALTH CARE PRICE DISCLOSURES

Sec. 1551.501. DEFINITIONS. In this subchapter:

(1) "Administrator" means an administering firm for a health benefit plan provided as basic coverage under this chapter.

(2) "Enrollee" means a participant enrolled in a health benefit plan provided as basic coverage under this chapter.

(3) "Facility" means a hospital, outpatient clinic, birthing center, ambulatory surgical center, or other licensed facility providing health care services. The term does not include an emergency clinic, a freestanding emergency medical care facility, or other facility providing only emergency care.

(4) "Practitioner" means an individual who is licensed to provide and provides medical or other health care services.

Sec. 1551.502. PROVIDER PRICE DISCLOSURE OR ESTIMATE.

(a) On the request of an enrollee and before providing a nonemergency health care service offered to the enrollee by the facility or practitioner, a facility or practitioner shall provide a price disclosure described by Subsection (b) or an estimate

1 described by Subsection (c), as applicable, not later than the
2 second business day after the date on which the enrollee requests
3 the disclosure or estimate.

4 (b) Except as provided by Subsection (c), a facility or
5 practitioner required to provide a price disclosure under
6 Subsection (a) shall disclose to the enrollee the amount, including
7 facility fees, that:

8 (1) the enrollee's health benefit plan will reimburse
9 the facility or practitioner for the service, if the facility or
10 practitioner is participating in the enrollee's health benefit plan
11 provider network; or

12 (2) the facility or practitioner will charge for the
13 service, if the facility or practitioner is not participating in
14 the enrollee's health benefit plan provider network.

15 (c) If a facility or practitioner is unable to quote a
16 specific amount under Subsection (b) because of the facility's or
17 practitioner's inability to predict the specific service the
18 enrollee will need, the facility or practitioner shall provide an
19 estimate of the amount required to be disclosed, including facility
20 fees.

21 (d) A facility or practitioner that provides an estimate
22 described by Subsection (c) shall:

23 (1) disclose the incomplete nature of the estimate;
24 and

25 (2) inform the enrollee that the facility or
26 practitioner may be able to provide an updated estimate after the
27 facility or practitioner obtains additional information.

1 Sec. 1551.503. EFFECT OF OTHER LAW. A facility that
2 provides an estimate under Section 324.101(d) is not relieved of
3 the obligation to provide a price disclosure or estimate under
4 Section 1551.502.

5 Sec. 1551.504. HEALTH CARE SERVICE INFORMATION. On
6 request, a facility or practitioner participating in the enrollee's
7 health benefit plan provider network shall provide an enrollee with
8 sufficient information about a proposed nonemergency health care
9 service to enable the enrollee to obtain a cost estimate to
10 determine the amount for which the enrollee will be personally
11 liable by using the enrollee's health benefit plan's toll-free
12 telephone number or Internet website or a third-party service. The
13 facility or practitioner shall provide the information to the
14 enrollee based on the information that is available to the facility
15 or practitioner at the time of the request. The facility or
16 practitioner may assist the enrollee in using the telephone number,
17 website, or third-party service.

18 Sec. 1551.505. HEALTH BENEFIT PLAN ESTIMATE OF CHARGES.
19 (a) The administrator for an enrollee's health benefit plan shall,
20 on the request of the enrollee, provide a good faith estimate of
21 payments that will be made for any medically necessary, covered
22 health care service from a network provider and shall also specify
23 any deductibles, copayments, coinsurance, or other amounts for
24 which the enrollee is responsible, based on the information
25 available to the administrator at the time the estimate was
26 requested. The estimate must be provided not later than the second
27 business day after the date on which the estimate was requested.

1 The administrator must advise the enrollee that the actual payment
2 and charges for the services may vary based upon the enrollee's
3 actual medical condition and other factors associated with
4 performance of medical services, including any factors unknown to
5 or unforeseeable by the administrator or provider at the time the
6 estimate was requested.

7 (b) An administrator may require an enrollee to pay any
8 deductibles, copayments, coinsurance, or other amounts disclosed
9 in the enrollee's coverage documents for an unforeseen health care
10 service that arises out of the provision of the proposed health care
11 service.

12 SUBCHAPTER L. SHARED SAVINGS INCENTIVE PROGRAM

13 Sec. 1551.551. DEFINITIONS. In this subchapter:

14 (1) "Administrator" means an administering firm for a
15 health benefit plan provided as basic coverage under this chapter.

16 (2) "Enrollee" means a participant enrolled in a
17 health benefit plan provided as basic coverage under this chapter.

18 (3) "Program" means the shared savings incentive
19 program established under this subchapter.

20 (4) "Shoppable health care service" means a health
21 care service covered by an enrollee's health benefit plan for which
22 the plan provides an incentive under the program. The term
23 includes:

24 (A) physical and occupational therapy services;

25 (B) obstetrical and gynecological services;

26 (C) radiology and imaging services;

27 (D) laboratory services;

- 1 (E) infusion therapy;
- 2 (F) inpatient and outpatient surgical
- 3 procedures;
- 4 (G) outpatient nonsurgical diagnostic tests or
- 5 procedures; and
- 6 (H) any other health care service designated as a
- 7 shoppable health care service by the commissioner for purposes of
- 8 this subchapter.

9 Sec. 1551.552. APPLICABILITY. This subchapter applies to a

10 health benefit plan provided as basic coverage under this chapter.

11 Sec. 1551.553. RULES. The commissioner may adopt rules to

12 implement this subchapter.

13 Sec. 1551.554. SHARED SAVINGS INCENTIVE PROGRAM. An

14 administrator shall develop and implement a shared savings

15 incentive program through which a health benefit plan provides an

16 incentive in accordance with this subchapter to an enrollee for

17 electing to receive a shoppable health care service at a lower cost

18 than the average cost for that service paid by the health benefit

19 plan.

20 Sec. 1551.555. DEPARTMENT REVIEW OF PROGRAM. Before

21 offering the program, an administrator shall file a description of

22 the program with the department in the form and manner prescribed by

23 the commissioner. The department shall review the description to

24 determine whether the program complies with this subchapter and

25 rules adopted under this subchapter. A description of a shared

26 savings incentive program and any supporting documentation filed

27 under this section are confidential until the department has

1 reviewed and approved a program.

2 Sec. 1551.556. NOTICE TO PARTICIPANTS. Annually and at
3 enrollment or renewal of a health benefit plan, the board of
4 trustees or administrator shall provide written notice to
5 participants and enrollees about the availability of the program.

6 Sec. 1551.557. PRICE DISCLOSURE TELEPHONE NUMBER AND
7 WEBSITE. (a) An administrator shall establish and operate a
8 toll-free telephone number and an interactive mechanism on the
9 publicly accessible Internet website for the health benefit plan
10 that an enrollee may use to:

11 (1) request and obtain from the administrator or a
12 designated third party the average amount paid under the health
13 benefit plan to providers in the health benefit plan provider
14 network for a particular health care service; and

15 (2) compare the cost of a shoppable health care
16 service among network providers.

17 (b) An administrator may contract with a third party to
18 operate the telephone number or interactive mechanism described by
19 Subsection (a).

20 Sec. 1551.558. AVERAGE COST DETERMINATION. (a) Except as
21 provided by Subsection (b), for purposes of this subchapter an
22 administrator shall determine the average amount paid under a
23 health benefit plan to providers in the health benefit plan
24 provider network for a particular health care service using amounts
25 paid within a reasonable period of not more than one year.

26 (b) The commissioner may approve an alternative method for
27 determining the average cost amount described by Subsection (a).

1 Sec. 1551.559. INCENTIVE PAYMENTS. (a) An administrator
2 must calculate an incentive under this section as a percentage of
3 the difference in price, as a flat dollar amount, or by some other
4 reasonable method approved by the commissioner. The administrator
5 must provide the incentive as a cash payment to the enrollee.

6 (b) Except as provided by Subsection (c), if an enrollee
7 elects to receive a shoppable health care service the total cost of
8 which is less than the average cost amount determined for the
9 service under Section 1551.558, the administrator shall pay to the
10 enrollee an incentive payment that is at least 50 percent of the
11 health benefit plan's saved cost.

12 (c) An administrator is not required to pay an enrollee
13 under Subsection (b) if the health benefit plan's saved cost is \$50
14 or less.

15 (d) If an enrollee elects to receive a shoppable health care
16 service from a provider outside the enrollee's health benefit plan
17 provider network the total cost of which is less than the average
18 cost amount determined for the service under Section 1551.558, the
19 administrator, in addition to paying any incentive payment due
20 under Subsection (b):

21 (1) may hold the enrollee responsible only for any
22 deductible, copayment, or coinsurance that would be due if the
23 service were provided by a provider in the health benefit plan
24 provider network; and

25 (2) shall apply the amount paid for the service toward
26 the enrollee's cost-sharing maximums, as if the service were
27 provided by a provider in the health benefit plan provider network.

1 (e) An incentive payment made in accordance with this
2 section is not an administrative expense of the administrator for
3 purposes of rate development or rate filing.

4 Sec. 1551.560. SHARED SAVINGS REPORTING. (a) Not later
5 than February 1 of each year, an administrator shall submit to the
6 commissioner and the board of trustees a report for the preceding
7 calendar year stating:

8 (1) the total number of incentive payments made under
9 Section 1551.559;

10 (2) the total amount of those incentive payments;

11 (3) the average amount of those incentive payments by
12 category of health care service;

13 (4) the total number and percentage of the health
14 benefit plan's enrollees who received an incentive payment;

15 (5) the number of shoppable health care services by
16 category for which incentive payments were made and the average
17 cost amount for those services; and

18 (6) the total savings achieved by the health benefit
19 plan for each category of health care service for which an incentive
20 payment was made.

21 (b) Not later than April 1 of each year, the department
22 shall submit a report aggregating the information submitted by each
23 health benefit plan administrator under this section to the
24 governor, the lieutenant governor, the speaker of the house of
25 representatives, and each legislative committee with jurisdiction
26 over health insurance matters.

27 SECTION 2. Section [324.101](#), Health and Safety Code, is

1 amended by adding Subsection (d-1) to read as follows:

2 (d-1) A facility that provides a price disclosure or
3 estimate under Section 1551.502, Insurance Code, is not relieved of
4 the obligation to provide an estimate under Subsection (d).

5 SECTION 3. (a) Subchapter K, Chapter 1551, Insurance Code,
6 as added by this Act, applies only to a service provided by a
7 facility or practitioner during a plan year beginning on or after
8 January 1, 2018. A service provided during a plan year beginning
9 before January 1, 2018, is governed by the law as it existed
10 immediately before the effective date of this Act, and that law is
11 continued in effect for that purpose.

12 (b) Subchapter L, Chapter 1551, Insurance Code, as added by
13 this Act, applies only to a health benefit plan for a plan year
14 beginning on or after January 1, 2018. A health benefit plan for a
15 plan year beginning before January 1, 2018, is governed by the law
16 as it existed immediately before the effective date of this Act, and
17 that law is continued in effect for that purpose.

18 SECTION 4. This Act takes effect September 1, 2017.